

**VOLUNTARY CLEANUP CONTRACT  
16-6376-NRP**

**IN THE MATTER OF  
JOSLYN CLARK CONTROLS SITE, LANCASTER COUNTY  
and  
MAKROCHEM, LLC**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and MAKROCHEM, LLC with respect to the Property located at 2013 West Meeting Street, Lancaster, South Carolina. The Property includes approximately 31.99 acres identified by Tax Map Serial Number 0066-00-031.00. In entering this Contract, the Department relies on the representations contained in the "Non Responsible Party Application for Voluntary Cleanup Contract" of January 8, 2016, and any amendments thereto, by MAKROCHEM, LLC, which is incorporated into this Contract and attached as Appendix A.

**AUTHORITY**

This Contract is entered into pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710 et seq. (as amended); the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-10, et seq. (as amended), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq., the S.C. State Underground Petroleum Environmental Response Bank Act, S. C. Code Ann. § 44-2-10, et seq. (as amended), and the South Carolina Pollution Control Act, § 48-1-10 et seq.

**DEFINITIONS**

1. Unless otherwise expressly provided in this Contract, terms used herein shall have the meaning assigned to them pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §44-56-710 et seq. (as amended), and if not set forth

therein, shall have the meaning assigned to them pursuant to the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10, et seq. (as amended), the S.C. Pollution Control Act, S.C. Code Ann. § 48-1-10, et seq. (as amended), the S.C. State Underground Petroleum Environmental Response Bank Act, S.C. Code Ann. § 44-2-10, et seq. (as amended) or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq.

- A. "MAKROCHEM" means MAKROCHEM, LLC.
- B. "Beneficiaries" means MAKROCHEM's Non-Responsible Party lenders, signatories, parents, subsidiaries, and successors, including new purchasers, lessees, and other parties acquiring an interest in any portion of the Property, but only to the extent that such parties have never been a Responsible Party at the Site.
- C. "Contamination" means the presence of a contaminant, pollutant, hazardous substance, petroleum, or petroleum product.
- D. "Contract" means this Voluntary Cleanup Contract.
- E. "Department" means the South Carolina Department of Health and Environmental Control, or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- F. "Existing Contamination" shall mean any Contamination present on, or under, the Site as of the execution date of this Contract.
- G. "Property" means the real property as described in the Non Responsible Party

Application for Voluntary Cleanup Contract attached as Appendix A, and that is subject to the ownership, prospective ownership, or possessory or contractual interest of MAKROCHEM or its Beneficiaries.

- H. "Segregated Sources" means drums, tanks, or similar discrete containers that potentially hold substances that may cause Contamination upon release to the environment.
- I. "Site" means all areas where a contaminant, petroleum, or petroleum product has been released, deposited, stored, disposed of, or placed or otherwise comes to be located; "Site" does not include any consumer product in consumer use or any vessel.
- J. "Waste Materials" means any Contamination-causing solid, semi-solid, or liquid material discarded, buried, or otherwise present on the Property, and may include sludge, slag, or solid waste materials such as empty containers and demolition debris or materials containing asbestos, lead-based paint, or petroleum or other contaminants.

## FINDINGS

- 2. Based on the information known by or provided to the Department, the following findings are asserted for purposes of this Contract:

- A. Owners and Operators: The owners and operators of the Property include the following:

The Clark Controller Company	2/24/64 – 11/30/65
A.O. Smith Corporation (merger)	11/30/65 – 12/16/74
Clark Controls, Inc.	12/16/74 – 1/1/80

GTE Sylvania Incorporated (merger) [name was later 1/1/80 – 1/12/84  
changed to GTE Products Corporation]

Challenger Electric Controls, Inc. 1/12/84 – 8/24/84

Joslyn Clark Controls, Inc. 8/24/84 - Present

- B. Property and Surrounding Areas: The Property is bounded generally to the north by a mobile home park (1990s to current), wooded land and vacant garage building; to the south by forestland and a railroad easement; to the east by apartment buildings since 1980, which was previously agricultural land; and to the west by wooded or agricultural land.

The Property consisted of open field/orchard prior to development of the existing manufacturing facility in 1964. The Property was developed by A.O. Smith Corporation as the Clark Controls Division. A warehouse/storage building was constructed in 1967. The Property was used to manufacture electrical control equipment for fire safety purposes since its construction in 1964 and ceased operations in 2009. The principal raw materials for manufacturing included sheet metal, copper wire, pre-manufactured metal and plastic components, electrostatic paint, and oil-based paint. A Phase I Environmental Site Assessment of the Property performed by ERM (February 2009) identified recognized environmental conditions consisting of a former metal plating operation and associated wastewater pre-treatment facility. Historical recognized environmental conditions (RECs) consisted of two former wastewater treatment lagoons located southwest of the manufacturing building on the western adjoining property. The lagoons were closed in 1979 under the direction of South Carolina Department of Health and Environmental Control (Department) and were excluded from the Property conveyance from Challenger Electric to Joslyn Clark Controls in 1984.

Subsequent environmental investigations by ERM have identified and delineated subsurface soil and groundwater contamination. The primary contaminants are trichloroethylene (TCE) and perchloroethylene (PCE) from former plating and wastewater treatment operations in the manufacturing building. A groundwater contaminant plume originates beneath the central portion of the building and is oriented in a generally north-south direction extending southeast of the manufacturing building to near the south Property boundary. Elevated concentrations of TCE and other volatile organic compounds have also been reported in groundwater at the southwest corner of the Property in connection with the lagoons located on the adjoining property. Delineation of this contamination has yet to occur. Joslyn Clark Controls, LLC, entered into a Responsible Party Voluntary Cleanup Contract with the Department on October 2, 2013. Pilot studies for in-situ chemical oxidation remediation have been performed by ERM, on behalf of Joslyn Clark Controls, LLC, and have demonstrated success in reducing the levels of groundwater contamination beneath the building.

The January 4, 2016 Phase I ESA, performed by S&ME, identifies the soil and groundwater contamination on the Property as a REC. The former wastewater treatment lagoons located on the adjoining property are also considered a REC in addition to potential vapor encroachment on the Property. The Phase I ESA provides a summary of the work performed under the RP VCC including: the results of the Phase II and Phase III assessments, the sensitive receptor survey, passive soil gas survey, remedial investigation, human health risk assessment, feasibility study, winter 2015 indoor air vapor intrusion assessment, and a pilot test for in-situ chemical oxidation.

A passive soil gas survey (SGS) took place on November 27-29, 2012 with the installation of 60 soil gas points in the northwest portion of the manufacturing

building. Twenty-five (25) VOCS were identified in the soil gas samples. The highest VOC concentrations were found at two locations in the northwest portion of the building, in the vicinity of the former wastewater treatment room, and the former paint booth and sump (southwestern portion of the building).

Vapor intrusion (VI) sampling event was conducted as a follow-up to the May 2014 VI assessment to confirm prior sample results and to collect samples in the winter months. The vapor intrusion assessment was conducted by ERM on February 18 and 19, 2015. Laboratory results from the February 2015 event showed lower VOC concentrations in soil gas when compared to the May 2014 results, and no exceedances of risk based screening levels (RSLs) in the indoor air samples. According to ERM, based on the lack of indoor air exceedances and reduction of soil gas concentrations, neither seasonal changes nor the pilot test remediation activities appear to have had an adverse effect on sub-slab soil gas or indoor air at the subject building.

Vapor intrusion (VI) assessment was conducted in May 2014 and February 2015. Laboratory results from the February 2015 event showed lower VOC concentrations in soil gas when compared to the May 2014 results, and contaminant levels below RSLs in the indoor air samples. According to ERM, based on the indoor air contaminant concentrations below RSLs and reduction of soil gas concentrations, neither seasonal changes nor the pilot test remediation activities appear to have had an adverse effect on sub-slab soil gas or indoor air at the subject building.

- C. Applicant Identification: MAKROCHEM is a South Carolina limited liability company with its principal place of business located at 1703 Laurel Street, Columbia, South Carolina 29201. MAKROCHEM affirms that it has the financial

resources to conduct the response action pursuant to this Contract.

- D. Proposed Redevelopment: MAKROCHEM will acquire the Property and intends to redevelop the Property as a warehouse and distribution facility for MAKROCHEM, sp. Z.O.O., which is a Polish-based carbon black manufacturer. Distribution will be by rail through a rail line spur to be constructed on the Property as well as by truck.

#### BONA FIDE PROSPECTIVE PURCHASER STATUS

3. MAKROCHEM certifies that it and its members are not a current owner of the Property, or parent, successor or subsidiary of a current or past owner of the Property; are not a Responsible Party for the site, or a parent, successor or subsidiary of a Responsible Party for the site; and have not had any involvement with the Property in the past other than activities performed in anticipation of participation in the Voluntary Cleanup Program. MAKROCHEM also certifies that it and its members are eligible to be a Bona Fide Prospective Purchaser for the Property.

#### RESPONSE ACTION

4. MAKROCHEM agrees to conduct the response actions specified in the subparagraphs below. An initial Work Plan shall be submitted by MAKROCHEM, or its designee, within thirty (30) days after the date of execution of this Contract by the Department, or such earlier or later date if approved by the Department's project manager. A Report of the assessment results shall be submitted by MAKROCHEM, or its designee in accordance with the schedule provided in the initial Work Plan. MAKROCHEM acknowledges that the assessment may find distributions of Existing Contamination requiring additional assessment and/or corrective action on the Property that cannot be anticipated with this Contract. MAKROCHEM agrees to perform the additional assessment and/or corrective

action consistent with the intended uses of the Property under the purview of this Contract; however, MAKROCHEM may seek an amendment of this Contract to clarify its further responsibilities. MAKROCHEM shall perform all actions required by this Contract, and any related actions of MAKROCHEM's choosing not expressly required by this Contract, pursuant to Work Plans and/or Addenda approved by the Department.

A. Work Plan Logistics:

- 1). The Work Plan(s) shall set forth a schedule and methods for assessment and corrective action activities detailed herein.
- 2). The Work Plan(s) shall be submitted to the Department in the form of one hard copy and one electronic copy of the entire Work Plan on a compact disk (in .pdf format).
- 3). All activities undertaken pursuant to this Contract shall be consistent with S.C. statutes, regulations, and permitting requirements (e.g., stormwater management and waste disposal regulations). MAKROCHEM shall identify and obtain the applicable permits before beginning any action.
- 4). The Work Plan(s) shall be in accordance with accepted industry standards and shall be signed and sealed by a Professional Engineer or Professional Geologist duly-licensed in South Carolina.
- 5). The Work Plan(s) shall provide detailed information about the proposed sampling points, collection methods, analytical methods, quality assurance procedures, and other pertinent details of the assessment and/or corrective measures activities consistent with the following:
  - a). Sample collection methodologies shall be consistent with the US EPA Region IV Field Branches Quality System and Technical Procedures.
  - b). All monitoring wells and groundwater sampling points shall be constructed in accordance with 25 S.C. Code Ann. Regs. R.61-71, the South Carolina Well Standards. The Work Plan shall provide sufficient detail to support



issuance of the well approvals by the Department.

c). The laboratory analyses for samples taken pursuant to the Work Plan are specified in the media-specific sub-paragraphs below, but may include any of the following:

- i. the full EPA Target Analyte List (TAL);
  - i). EPA Target Analyte List excluding cyanide (TAL-Metals);
- ii. the full EPA Target Compound List (TCL);
  - i). EPA Target Compound List Volatile Organic Compounds (TCL-VOCs);
  - ii). EPA Target Compound List Semi-Volatile Organic Compounds (TCL-SVOCs);
  - iii). EPA Target Compound List Pesticides (TCL-Pesticides);
  - iv). EPA Target Compound List Polychlorinated Biphenyls (TCL-PCBs).

d). All analytical methods shall use appropriate detection levels to allow comparison to the media-specific screening criteria listed in the "EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites" in effect at the time of sampling. The applicable Protection of Groundwater SSL for soil samples shall be the "MCL-Based SSL", if listed. If the applicable screening criteria are lower than achievable detection levels, the analytical method shall use the lowest achievable detection levels.

6). The Work Plan shall include the names, addresses, and telephone numbers of MAKROCHEM's consulting firm(s), analytical laboratories, and MAKROCHEM's contact person for matters relating to this Contract and the Work Plan.

a). The analytical laboratory shall possess applicable Certification defined in 25A S.C. Code Regs. R.61-81, for the test methods specified in the Work Plan.

- b). MAKROCHEM shall notify the Department in writing of any changes concerning the consulting firm(s), contact person(s), or laboratory identified in the Work Plan.
- 7). The Department will notify MAKROCHEM in writing of approvals or deficiencies in the Work Plan.
- 8). MAKROCHEM, or its designee, shall respond in writing within thirty (30) days of receipt of any comments on the Work Plan by the Department.
- 9). MAKROCHEM shall begin implementation of the Work Plan as soon as reasonably possible after receipt of written approval of the Work Plan by the Department.
- 10). MAKROCHEM shall inform the Department at least five (5) working days in advance of all field activities conducted pursuant to the Work Plan, and shall allow the Department, or its authorized representatives, to take duplicates of any samples if desired.
- 11). MAKROCHEM shall preserve items on the Property that may: 1) provide evidence of a Potentially Responsible Party's involvement at the Site; 2) lead to the discovery of other areas of Contamination at the Site; or 3) contain environmental information related to the Site. Such items may include drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site. MAKROCHEM shall notify the Department of the location of any such items, and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense prior to destruction of said items.

**B. Report Logistics**

- 1). Report(s) shall be prepared in accordance with accepted industry standards and shall be certified by signature and seal of a Professional Engineer or Professional Geologist duly licensed in South Carolina.

- 2). The Report(s) of assessment and/or corrective measures activities shall include a discussion of investigation methods and any deviations from the Department approved Work Plan. The Report shall also include tables and figures to summarize all data, a surveyed map documenting sampling locations, documentation of field observations including well core logs, sample descriptions, field screening results, and all laboratory analytical data.
- 3). All Report(s) shall be submitted to the Department in the form of one hardcopy and one electronic copy of the entire Report on a compact disk (in .pdf format).

C. Assess Waste Materials and Segregated Sources:

- 1). MAKROCHEM shall characterize for disposal any Waste Material and Segregated Sources that may be discovered on the Property at any time during assessment, corrective action, or development activities in accordance with applicable regulations.
- 2). Upon discovery of any Segregated Source that has not yet released all contents to the environment, MAKROCHEM shall expeditiously stabilize or remove the Segregated Source from the Property.
- 3). MAKROCHEM shall immediately notify the Department if a release of Contamination occurs as a result of its assessment, stabilization or removal actions. MAKROCHEM shall assess the impact of the release and take necessary action in accordance with a Department approved plan.

D. Conduct a well survey:

- 1). MAKROCHEM shall include with its Report of the assessment results the Sensitive Receptor Survey prepared by ERM NC, Inc. for the Site, which maps all public and private wells used for drinking water supply within a one-half mile radius of the Property, and wells used for irrigation or other non-

drinking water use within a one-quarter mile radius.

- 2). MAKROCHEM shall report sufficient information to the Department to allow the Department to secure permission to sample the wells (which can be in the form of the Sensitive Receptor Survey that was prepared by ERM NC, Inc. for the Site). At a minimum, this information shall include the: 1) Location of the well; 2) Identity and mailing address of the well owner; and, 3) Telephone number, if publicly available or otherwise known to MAKROCHEM, of the well owner or occupant of the residence served by the well.

E. Assess groundwater quality:

- 1). MAKROCHEM shall assess groundwater quality and flow direction across the Property. Assessment shall include samples from a minimum of two newly installed monitoring wells, which may consist of temporary direct-push wells. Specific locations shall be as follows:
  - a). Hydraulically downgradient of the former wastewater lagoons located on the adjacent property;
  - b). Water level measurements shall be collected from the existing monitoring wells in the vicinity of the former wastewater lagoons to assess groundwater flow direction in this area;
  - c). Any existing monitoring wells that may be impacted by construction on the Property must be sampled (analyzed for VOCs only) and abandoned prior to construction activities. The Department must be provided notice of intent to abandon the wells. Those wells which are deemed necessary by the Department must be replaced in a location to be approved by the Department.
- 2). Unless otherwise specified above, samples from all groundwater monitoring wells shall be analyzed for TAL- Metals, VOCs and SVOCs. The sample from the most downgradient well shall be analyzed for the full TAL/TCL

parameters.

- 3). Groundwater quality results shall be compared to the primary maximum contaminant level (MCL) standards in the South Carolina State Primary Drinking Water Regulations, R.61-58, or, if not specified in R.61-58, to the Regional Screening Tables values for "Tapwater."

F. Evaluate and control potential impacts to indoor air:

- 1). Based upon the results of the assessment performed under this Contract or if MAKROCHEM alters the building in a manner that increases the potential for vapor intrusion, MAKROCHEM shall further evaluate potential impacts to indoor air if the Department determines significant concentrations of volatile organic compounds are present in the subsurface based on EPA OSWER "Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air" dated June 2015 and supplemental EPA guidance. The Department's evaluation will be constrained towards predicting commercial exposures consistent with the building construction proposed to be used on the Property.
- 2). MAKROCHEM's evaluation shall, unless otherwise agreed to by the Department, consist of collection and analysis of a representative number of soil gas samples from the proposed footprint of buildings to be constructed on the Property over areas potentially subject to Vapor Intrusion. Soil gas samples shall be analyzed for all site related volatile compounds by appropriate methods capable of detecting soil gas concentrations at screening levels indicative of a  $10^{-6}$  risk for shallow gas samples (using a depth-appropriate attenuation factor). The applicable screening concentrations shall be based upon the EPA OSWER "Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air" dated June 2015 and supplemental EPA guidance.

- 3). The Department may allow MAKROCHEM to implement vapor intrusion control measures in lieu of the above evaluation, or use alternative evaluation methods that, in the Department's sole discretion, offer a similar degree of data usability.
- 4). MAKROCHEM shall submit an addendum to the Work Plan detailing the steps for further study and/or remedial or other control management measures to be implemented if the predicted indoor air concentration exceeds a  $10^{-6}$  risk calculated for occupational exposure (40 hrs/wk, 50 wk/yr, 25 yrs). The Department shall give reasonable consideration of data or other demonstration that shows unacceptable exposures inside the building do not result from the subsurface conditions.

G. Institute reasonable Contamination control measures:

- 1). MAKROCHEM shall stabilize or remove from the Property any Segregated Sources of Contamination that have not yet released all contents to the environment.
  - a). The contents of the Segregated Sources shall be properly reused or disposed of in accordance with regulations.
  - b). MAKROCHEM shall document the characterization results and ultimate disposition of the materials to the Department within sixty (60) days of removal of any material from the Property.
- 2). MAKROCHEM shall take reasonable measures to limit or prevent human exposure to Existing Contamination on the Property
  - a). Corrective measures shall be required for Waste Materials and Contamination present in any media on the Property with concentrations in excess of appropriate human-health risk-based exposure standards with plausibly complete routes of exposure.
  - b). The corrective measures shall be proposed in a Corrective Measures Plan

to be approved by the Department prior to implementation, and shall be consistent with the intended future use of the Property. Corrective measures may include removal, encapsulation, barriers, or other methods reasonably expected to limit human exposures to the Contamination.

- c). MAKROCHEM may request Department approval to conduct a site-specific risk assessment to determine levels of Contamination that are acceptable for the intended use of the Property. The risk assessment shall be conducted in accordance with EPA Risk Assessment Guidance for Superfund. Prior to conducting the risk assessment, MAKROCHEM shall submit for Department approval, an overview of risk assessment assumptions including identification of contaminant exposure routes, the type and duration of possible exposures, the magnitude of exposure, and any data gaps that need to be addressed to complete the risk assessment.
- d). Based upon the results of the environmental assessment, MAKROCHEM shall propose a Media Management Plan for management of contaminated media during any Property development activities that will disturb contaminated media remaining on the Property. This plan shall identify procedures for management of contaminated soil and groundwater that may be encountered during development activities on the Property. The Media Management Plan shall address management of contaminated media when encountered on the Property, its characterization if necessary for offsite disposal, and identification of the final disposal location for all contaminated media.
- e). Upon completion of any corrective measures, MAKROCHEM shall provide a Corrective Measures Report to document satisfactory completion of the corrective measures for Department review and approval prior to obtaining a Certificate of Completion.

- f). In the event that corrective measures include engineering controls that must be maintained and monitored for future use of the Property, a Stewardship Plan may be required by the Department. If required, the Stewardship Plan shall identify procedures for management of contaminated media that may be encountered as a result of any disturbance of the engineering controls, and for repair or replacement of the engineering controls.

H. Monitor and/or abandon the monitoring wells:

- 1). MAKROCHEM shall implement a groundwater-monitoring program if required by the Department. Continued monitoring requirements will be based on the Department's determination of potential adverse effects on nearby receptors, i.e., individuals that are presently or potentially exposed to Contamination.
- 2). The Department will determine the frequency and duration of the monitoring program on a case-specific basis.
- 3). MAKROCHEM shall abandon the monitoring well(s) when the Department determines there are no further needs for wells. The wells shall be abandoned in accordance with R.61-71 of the South Carolina Well Standards.

I. Complete required activities in the event of a Responsible Party default:

- 1). Ongoing Responsible Party activities under VCC 13-5875-RP may substantially satisfy the requirements in sub-paragraphs 4.C through 4.H above. Therefore, it is agreed that response action completed by the Responsible Parties that meet the conditions of this Contract shall be deemed to satisfy the requirements on MAKROCHEM. The Department shall have sole discretion in determining the adequacy of the Responsible Party's response action towards completing the activities required by this Contract.



- 2). The Department will provide written notification to MAKROCHEM if more than 180 consecutive days elapse without substantial progress, or the Department otherwise determines the Responsible Party activities are inadequate.
- 3). MAKROCHEM shall respond in writing within thirty days to the Department's notification with a work plan for completing the unfulfilled requirements of this Contract.

#### HEALTH AND SAFETY PLAN

5. MAKROCHEM shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan consistent with Occupational Safety and Health Administration regulations. The Health and Safety Plan shall be submitted to the Department in the form of one electronic copy on compact disk (in .pdf format). MAKROCHEM agrees that the Health and Safety Plan is submitted to the Department only for informational purposes. The Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by MAKROCHEM.

#### PUBLIC PARTICIPATION

6. MAKROCHEM and the Department will encourage public participation to implement this Contract as follows:
  - A. The Department will provide notice, seek public comment, and initiate a thirty-day claim contribution notification period in accordance with established procedures consistent with S.C. Code Ann. §44-56-750 upon signature of this Contract by MAKROCHEM.
  - B. MAKROCHEM shall erect a sign at major entrances onto the Property or other locations routinely accessible by the public. The sign(s) shall be erected no later

than one day after the Department's public announcement about the Contract in a newspaper of general circulation in the community.

- 1). The sign(s) will state "Voluntary Cleanup Project by MAKROCHEM, LLC under Voluntary Cleanup Contract 16-6376-NRP with the South Carolina Department of Health and Environmental Control." The sign(s) shall provide a brief description of the scope of activities under the Contract, and contact information, including telephone number and address, for a representative of MAKROCHEM. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432".
- 2). All sign lettering must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the Property without intruding onto the Property.
- 3). MAKROCHEM shall submit photographs of the sign(s) and a Property drawing showing the location(s) of the sign(s). The photographs shall be submitted to the Department within 10 days of erecting the sign(s).
- 4). MAKROCHEM agrees to revise the sign if the Department determines the sign is inaccurate, not legible, or otherwise ineffectively placed.
- 5). MAKROCHEM shall maintain the sign(s) in legible condition and at visible locations throughout the duration of the Contract period until a Certificate of Completion is issued on the Property.
- 6). The sign(s) may be removed to accommodate building or grading activities; however, MAKROCHEM shall restore the sign(s) within two (2) days to its original location, or other publicly accessible location upon notice to the Department.

#### PROGRESS UPDATES

7. MAKROCHEM shall submit periodic written updates to the Department's project manager until such time as all activities related to the Property are complete pursuant to this Contract. The first update shall be due within 90 days of the

execution date of this Contract and semi-annually thereafter.

- A. The updates may be in summary letter format, but should include information about:
- 1). The actions taken under this Contract during the previous reporting period;
  - 2). Actions scheduled to be taken in the next reporting period;
  - 3). Sampling, test results, and any other data in summary form, generated during the previous reporting period regardless of whether the data was collected pursuant to this Contract; and,
  - 4). A description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.
- B. The Department's project manager may allow an extended schedule between updates based on case specific conditions.

#### SCHEDULE

8. MAKROCHEM shall perform all activities and response actions pursuant to this Contract in an expeditious manner. In the event that circumstances cause a delay in implementation of the response actions, the Department may require implementation of interim measures to stabilize Contamination or prevent unacceptable exposures. MAKROCHEM shall implement the interim measures in accordance with a Department-approved plan.

#### DECLARATION OF COVENANTS AND RESTRICTIONS

9. MAKROCHEM or its Beneficiaries shall enter, and record, a Declaration of Covenants and Restrictions (Declaration) for the Property to restrict the use of the Property from residential; recreational uses intended for children, such as children's parks or playgrounds; agricultural; child day care; and adult day care use; maintain the existing building as an engineering control; and prohibit the use of groundwater

on the Property. Additional restrictions may be required based on the response actions completed under this Contract. The recorded Declaration shall be incorporated into this Contract as an Appendix and shall be implemented as follows:

- A. The Department shall prepare and sign the Declaration prior to providing it to MAKROCHEM. An authorized representative of MAKROCHEM or its Beneficiaries shall sign the Declaration within ten (10) days of receipt. All signatures shall be witnessed, and signed and sealed by a notary public.
- B. MAKROCHEM or its Beneficiaries shall record the executed Declaration with the Registrar of Deeds or Mesne Conveyance for the county where the Property is located.
- C. MAKROCHEM or its Beneficiaries shall provide a copy of the recorded Declaration to the Department within sixty (60) days of the Department's execution. The copy shall show the date and Book and Page number where the Declaration has been recorded.
- D. In the event that Contamination exceeds levels acceptable for unrestricted use (Regional Screening Levels for residential use) on a portion of the Property, MAKROCHEM or its Beneficiaries may create a new parcel of that portion of the property that will be subject to the Declaration.
- E. The Declaration shall be noted on the master deed of any planned development for the Property and noted, or referenced thereafter, on each individual deed of property subdivided from the Property and subject to the Declaration.
- F. The Declaration shall reserve a right of entry and inspection for MAKROCHEM or its Beneficiaries that may be transferred to another single individual or entity for

purposes of compliance monitoring.

- 1). MAKROCHEM or its Beneficiaries shall ensure that the restrictions established by the Declaration remain on any subdivided property.
- 2). MAKROCHEM or its Beneficiaries shall create a procedure to provide a single point of contact responsible for documenting current land use and compliance with the Declaration regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.

- G. The Declaration shall provide that the Department has an irrevocable right of access to the Property after MAKROCHEM acquires the Property, and such right of access shall remain until remediation is accomplished for unrestricted use and monitoring is no longer required. Such access shall extend to the Department's authorized representatives and all persons performing response actions on the Property under the Department's oversight.
- H. MAKROCHEM or its Beneficiaries, or the individual or entity responsible for compliance monitoring, shall annually document the Property's land use and compliance with the Declaration to the Department. The report shall be submitted by May 31<sup>st</sup> in a manner and form prescribed by the Department.
- I. The Department may amend the Declaration in response to changes in law, completion of remedial actions meeting the applicable standards in effect at the time, or if other circumstances of the Property change; however, said amendment shall not be applied retroactively unless expressly provided for in the legislation. An amendment may strengthen, relax, or remove restrictions based on the Regional Screening Tables in effect at that time; however, the Department shall not impose a more restrictive condition based solely on changes in the Regional Screening Tables. An amendment to the Declaration shall be duly

executed and recorded using procedures similar to those detailed above.

#### NOTIFICATION

10. All notices required to be given by either party to the other shall be in writing. Each party shall have a continuing obligation to identify a contact person, whose name, address, and telephone number must be updated to the other party, throughout the term of the Contract. Notices by electronic mail or facsimile shall be acceptable if acknowledged in writing by the recipient; with the delivery date being the date of acknowledgment or earlier date if stated in the acknowledgment. All other forms of notice shall be deemed sufficiently given if delivered at the address shown below, or at such place or to such agent as the parties may from time to time designate in writing, by: 1) regular U.S. Mail by which notice shall be deemed to occur seven (7) days after the postmark date; 2) Certified or Registered Mail by which notice shall be deemed to occur on the date received as shown on the receipt; 3) Commercial delivery service company by which notice shall be deemed to occur on the date received as shown on the receipt; or, 4) hand delivery to the other party.

A. All correspondence, notices, work plans, and reports shall be submitted to:

Jerry Stamps  
Bureau of Land and Waste Management  
2600 Bull Street  
Columbia, South Carolina 29201

B. All correspondence and notices to MAKROCHEM shall be submitted to MAKROCHEM's designated contact person who as of the effective date of this Contract shall be:

Jacek Niemczyk, Manager  
1703 Laurel Street  
Columbia, South Carolina 29201

#### FINANCIAL REIMBURSEMENT

11. MAKROCHEM or its Beneficiaries shall reimburse the Department for its public participation costs and for oversight costs of activities specific to this Contract as provided by S.C. Code Ann. §44-56-750 (D). The oversight costs shall include the direct and indirect costs incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract, and any future amendments thereto, and may include costs related to this Contract and incurred by the Department prior to execution of this Contract. Invoices for oversight costs will be sent to MAKROCHEM on a quarterly basis. All costs are payable within thirty (30) days of the Department's invoice submitted to:

Jacek Niemczyk, Manager  
1703 Laurel Street  
Columbia, South Carolina 29201

- A. Failure to submit timely payment for costs upon receipt of the Department's invoice is grounds for termination of the Contract pursuant to paragraph 16 herein.
- B. Payment for costs incurred by the Department pursuant to this Contract shall become immediately due upon termination of the Contract by any party pursuant to paragraph 16 herein.

#### ACCESS TO THE PROPERTY

12. MAKROCHEM agrees the Department has an irrevocable right of access to the

Property for environmental response matters after MAKROCHEM acquires the Property. This right of access remains until such time as remediation is accomplished for unrestricted use and monitoring is no longer required, and shall extend to the Department's authorized representatives and all other persons performing response actions on the Property under the Department's oversight.

#### CERTIFICATE OF COMPLETION AND COVENANT NOT TO SUE

13. A Certificate of Completion shall be issued to MAKROCHEM or its Beneficiaries for the Property under this Contract as follows:

- A. MAKROCHEM or its Beneficiaries shall request a Certificate of Completion pursuant to S.C. Code Ann. § 44-56-750(C)(1) after the response actions are completed and any required Declarations are recorded pursuant to this Contract. The request shall be in writing and shall report 1) the amount of soil that was removed or remediated on the Property; and 2) the cost of all environmental work conducted pursuant to this Contract.
- B. Pursuant to S.C. Code Ann. § 44-56-750(C)(1) the Department shall issue the Certificate of Completion with its covenant not to sue upon determining that MAKROCHEM or its Beneficiaries has successfully and completely complied with the Contract and the voluntary cleanup approved under S.C. Code Ann. § 44-56-710 through 760 (as amended).
- C. The Department may issue a Provisional Certificate of Completion if the substantive response actions required under this Contract are complete and a required Declaration has been recorded but all actions under this Contract have not been completed due to Property-specific circumstances.
  - 1). A Provisional Certificate of Completion will include specific performance standards that MAKROCHEM or its Beneficiaries shall continue to meet.



- 2). The Provisional Certificate of Completion may include the Department's covenant not to sue for Existing Contamination; however, said covenant shall be automatically revoked if MAKROCHEM or its Beneficiaries do not satisfactorily complete the requirements of the Contract as stipulated in the Provisional Certificate of Completion.

#### ECONOMIC BENEFITS REPORTING

14. MAKROCHEM or its Beneficiaries shall report information to the Department that demonstrates that the activities pursuant to this Contract have been beneficial to the State and community. The report shall be submitted within two (2) years after the execution date of this Contract, and annually thereafter until two (2) years after redevelopment of the Property is complete. MAKROCHEM shall summarize the new operations at the Property, the number of jobs created, the amount of property taxes paid, and the total amount invested in the Property for property acquisition and capital improvements.

#### CONTRACT OBLIGATIONS AND PROTECTIONS INURE

15. The terms, conditions, obligations and protections of this Contract apply to and inure to the benefit of the Department, MAKROCHEM, and its Beneficiaries as set forth below. The following stipulations apply to ensure the transition of all obligations and protections to successive Beneficiaries for any portion of the Property:
  - A. MAKROCHEM or its Beneficiaries shall provide a copy of this Contract and applicable Appendices to any subsequent Beneficiary. Transmittal of the Contract copy may be via any commonly accepted mechanism.
  - B. If the Certificate of Completion has not been issued, MAKROCHEM or its Beneficiaries shall request approval from the Department prior to transferring the

obligations and protections of this Contract to a new person or entity. The Department shall not unreasonably withhold its approval upon receipt of a Non-Responsible Party Application for Voluntary Cleanup Contract documenting that the new person or entity:

- 1). Is not a Responsible Party for the Site;
- 2). Has sufficient resources to complete the activities of this Contract;
- 3). Will not use the Property for activities that are inconsistent with the terms and conditions of this Contract;
- 4). Will assume the protections and all obligations of this Contract; and,
- 5). Will, in the Department's sole discretion, provide a measurable benefit to the State and the community as a result of this transfer.

C. If the Certificate of Completion has been issued and the portion of the Property is subject to a Declaration or other ongoing obligation pursuant to this Contract, MAKROCHEM or its Beneficiaries shall provide written notification to the Department identifying the new individual or entity within thirty days after the effective date of the ownership change or other possessory transfer of the Property.

- 1). The notification shall include a signed statement from the new individual or entity that its use of the Property will remain consistent with the terms of the Contract and the Declaration, and that it will assume the ongoing obligations and protections of this Contract.
- 2). This requirement is waived for an individual or entity acquiring a portion of the Property for individual residential or commercial use provided the Declaration is noted on the master deed for the planned development, and the Department has approved the procedure for a single point of contact responsible for documenting current land use and compliance with the Covenant.

## CONTRACT TERMINATION

16. MAKROCHEM, its Beneficiaries, and the Department each reserve the right to unilaterally terminate this Contract by giving thirty days advance written notice to the other party. Termination shall be subject to the following:

A. The Department may not terminate this Contract without cause and before termination, shall provide MAKROCHEM or its Beneficiaries an opportunity to correct the cause(s) for termination, which may include, but is not limited to, the following:

- 1). Failure to complete the terms and conditions of this Contract;
- 2). Change in MAKROCHEM's or its Beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract;
- 3). Failure to submit timely payment for costs upon receipt of the Department's invoice;
- 4). Failure of MAKROCHEM or its Beneficiaries to implement appropriate response actions for additional Contamination or releases caused by MAKROCHEM or its Beneficiaries;
- 5). Knowingly providing the Department with false or incomplete information or knowing failure to disclose material information;
- 6). Failure by MAKROCHEM or its Beneficiaries to obtain the applicable permits from the Department for the response actions or other activities undertaken at the Property pursuant to this Contract; or,
- 7). Failure by MAKROCHEM or its Beneficiaries to make material progress toward the expansion, redevelopment, or reuse of the property as determined by the Department upon consideration of MAKROCHEM's or its Beneficiaries' marketing efforts, regional economic conditions, and other pertinent information on the Property.

- B. Should MAKROCHEM or its Beneficiaries elect to terminate, that party shall certify to the Department's satisfaction that any environmental or physical hazards caused or contributed by MAKROCHEM or its Beneficiaries have been stabilized or mitigated such that the Property does not pose hazards to human health or the environment.
- C. Termination of this Contract by any party does not waive the Department's authority to require response action under any applicable state or federal law.
- D. Termination of this Contract by any party does not end the obligations of MAKROCHEM or its Beneficiaries to pay costs incurred by the Department pursuant to this Contract. Payment for such costs shall become immediately due.
- E. Upon termination, the protections provided under this Contract shall be null and void as to any party who participated in actions giving rise to termination of the Contract. Revocation of protections shall also apply to that party's lenders, parents, subsidiaries, and successors, including lessees, heirs, devisees, and other parties taking an interest in the Property through that party who participated in actions giving rise to termination of the contract. The protections will continue for any party who has received protections through a Certificate of Completion for this Contract, and who did not participate in the actions giving rise to the termination.

#### ENTITLEMENT OF PROTECTIONS AND BENEFITS

17. MAKROCHEM and its Beneficiaries are entitled to the protections and benefits in regard to Existing Contamination provided by South Carolina statutes as follows:

- A. Effective on the date this Contract is first executed by the Department:

- 1). Protection from contribution claims under CERCLA Section 113.42 U.S.C. § 9613 and § 44-56-200, et seq.
- 2). Protection from third-party claims as provided by S.C. Code Ann. § 44-56-750(H).
- 3). Eligibility to file annual application for Voluntary Cleanup Activity Tax Credits pursuant to S.C Code § 12-6-3550.

B. Effective on the date the Certificate of Completion is issued by the Department.

- 1). The Department's covenant not to sue MAKROCHEM and its Beneficiaries for Existing Contamination but not for any Contamination, releases and consequences caused or contributed by MAKROCHEM or its Beneficiaries.
- 2). Specific tax credits or additional benefits expressly contingent in South Carolina statutes on issuance of the Certificate of Completion.

C. These Protections and Benefits do not apply to any Contamination, releases, and consequences caused or contributed by MAKROCHEM or its Beneficiaries. The Department retains all rights under State and Federal laws to compel MAKROCHEM and its Beneficiaries to perform or pay for response activity for any Contamination, releases and consequences caused or contributed by MAKROCHEM or its Beneficiaries.

#### RESERVATION OF RIGHTS BY THE DEPARTMENT

18. Nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, past or future, that the Department may have against any person, firm, or corporation other than MAKROCHEM and its Beneficiaries. The Department reserves the right to undertake future response actions at the Site and to seek to compel parties, other than MAKROCHEM and its Beneficiaries, to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or

scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law.

#### RESERVATION OF RIGHTS BY MAKROCHEM

19. MAKROCHEM retains all rights to assert claims in law or equity against any person, company, or entity with respect to the Property, except as limited elsewhere by this Contract. MAKROCHEM and its Beneficiaries specifically deny responsibility for response costs or damages resulting from Existing Contamination except for Contamination, releases, and consequences they cause or contribute. However, MAKROCHEM and its Beneficiaries agree to undertake the requirements of this Contract.

#### BURDEN OF PROOF

20. MAKROCHEM and its Beneficiaries shall have the continuing obligation to demonstrate that any newly discovered Contamination is not caused or contributed by MAKROCHEM or its Beneficiaries. MAKROCHEM and its Beneficiaries shall make this demonstration to the Department's satisfaction in accordance with State or Federal Law applicable to such newly discovered Contamination. For purposes of this clause, newly discovered Contamination means finding types of Contamination not previously identified at the Property or substantially higher concentrations of Existing Contamination.

#### LIMITATION OF CLAIMS BY MAKROCHEM AND ITS BENEFICIARIES

21. In consideration of the protections from the Department under this Contract, MAKROCHEM and its Beneficiaries agree not to assert any claims or causes of action against the Department or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Property pursuant to this Contract. This limitation shall not extend to any claims or causes of action resulting from the Department's intentional or negligent acts or omissions, or the

Department's willful breach of this Contract.

**[Remainder of page left blank]**

SIGNATORS

22. The signatories below hereby represent that they are authorized to and do enter into this Contract on behalf of their respective parties.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL CONTROL**

BY:

DATE:

\_\_\_\_\_  
Daphne G. Neel, Chief  
Bureau of Land and Waste  
Management

DATE:

\_\_\_\_\_  
Reviewed by Office of General Counsel

**MAKROCHEM, LLC**

BY:

DATE:

\_\_\_\_\_  
*Jacek Niemczyk*

\_\_\_\_\_  
*March 11<sup>th</sup>, 2016*

\_\_\_\_\_  
*JACEK NIEMCZYK, MANAGER*

\_\_\_\_\_  
Printed Name and Title



# APPENDIX A

MAKROCHEM, LLC

Application for Non-Responsible Party Voluntary Cleanup Contract

January 8, 2016



## Non Responsible Party Application for Voluntary Cleanup Contract

### I. Applicant Information:

1. Applicant is a: ☒ Single Entity ☐ Co-Entity (Each Co-Entity must complete Items 1-8)  
2. Applicant Type: ☐ Private Individual /Sole Proprietorship ☒ For-profit Business (Corp., Partnership, etc.) ☐ Tax-Exempt Trust/ Corporation/ Organization ☐ Government / Other Public Funded Entity

3. Applicant's Legal Name MAKROCHEM, LLC

### 4. Contract Signatures for this Applicant

#### a. Authorized Signatory

Jacek Niemczyk

Manager

jacek.niemczyk@makrochem.com

Name  
1703 Laurel Street

Title  
(905) 304-9101

Email  
(289) 707-1901

Address  
Columbia

Phone1  
SC

Phone2  
29201

City

State

Zip

#### b. Other Signatories ☒ None

Name	Title	Phone	Email	Signature Required On Contract?
		( ) -		<input type="checkbox"/>
		( ) -		<input type="checkbox"/>
		( ) -		<input type="checkbox"/>

### 5. Physical Location of Applicant's Headquarters

1703 Laurel Street

Street address

Suite Number

Columbia

SC

29201

City

State

Zip

### 6. Mailing address: ☒ Same as Authorized Signatory Go to question 7

Contact person (if different from Authorized Signatory):

Title

Street Number or PO Box

Phone1

Phone 2

City

State

Zip

Email

### 7. Company Structure Information ☐ Not-applicable (Local Government, Sole Proprietorship, Private Individual) - Go to Question #8

a. Company is Incorporated/ Organized/ Registered in South Carolina (state)

b. List all principals, officers, directors, controlling shareholders, or other owners with >5% ownership interest.

Attach additional pages if needed.

Name  
Owned entirely by MAKROCHEM, Inc., a Delaware Corp.,  
which is in turn owned by MAKROCHEM, sp. Z.O.O. (a  
Polish company)

Name

c. Is the applicant a subsidiary, parent or affiliate of any other business organization not otherwise identified on this form?  
☐ Yes ☒ No

d. If yes, identify all affiliations:

### 8. Non-Responsible Party Certification

By signature below, it is affirmed that no person or entity identified anywhere above:

1. Is a current owner of the property
2. Is a Responsible Party for the site
3. Is a parent, successor, or subsidiary of any Responsible Party or owner of the property
4. Has had any involvement with the property in the past other than activities performed in anticipation of participation in the Voluntary Cleanup Program

Jacek Niemczyk  
Authorized Signatory

Co Signatories

## II. Property Information

### 9. Location

a. Physical Address 2013 West Meeting Street, Lancaster, SC

b. County Lancaster

c. ☒ Property is outside any municipal boundaries    ☐ Property is inside the municipal limits of \_\_\_\_\_  
(town/city)

### 10. List any Companies or Site names by which the Property is known

Joslyn Clark Site

Joslyn Clark Controls Site

### 11. Total Size of Property Covered by this Contract 31.99 Acres

### 12. How many parcels comprise the Property? One

### 13. Current Zoning (general description)

I-1 (Light Industrial)

### 14. a. Does the property have any above- or below-ground storage tanks? ☐ Yes ☒ No

b. If Yes, provide information on the number and capacity of the tanks, their contents, and whether they will be retained, or closed and/or removed.

15. Parcel Information Complete the information below for each Parcel (attach additional sheets if needed)

a. Tax Map Parcel# 0066-00-031.00  
b. Acreage 31.99  
c. Current Owner Joslyn Clark Controls  
d. Owner Mailing Address 2100 W. Broad St.  
Elizabethtown, NC  
28337  
e. Contact Person for Access David Hanna  
f. Access Person's Phone # (704) 705-3862  
g. Is Parcel Currently Vacant? ☒ Yes ☐ No  
h. Buildings on the parcel? ☐ None  
(check all that apply) ☐ Demolished/Ruins  
☐ Intact, To be demolished  
☒ Intact, To be re-used  
i. Business/facility operations ☐ Never Operated on the parcel  
☒ Not operating since 2009  
(approx date)  
☐ In operation: nature of the  
business \_\_\_\_\_

a. Tax Map Parcel# \_\_\_\_\_  
b. Acreage \_\_\_\_\_  
c. Current Owner \_\_\_\_\_  
d. Owner Mailing Address \_\_\_\_\_  
e. Contact Person for Access \_\_\_\_\_  
f. Access Person's Phone # \_\_\_\_\_  
g. Is Parcel Currently Vacant? ☐ Yes ☐ No  
h. Buildings on the parcel? ☐ None  
(check all that apply) ☐ Demolished/Ruins  
☐ Intact, To be demolished  
☐ Intact, To be re-used  
i. Business/facility operations ☐ Never Operated on the parcel  
☐ Not operating since \_\_\_\_\_  
(approx date)  
☐ In operation: nature of the  
business \_\_\_\_\_

a. Tax Map Parcel# \_\_\_\_\_  
b. Acreage \_\_\_\_\_  
c. Current Owner \_\_\_\_\_  
d. Owner Mailing Address \_\_\_\_\_  
e. Contact Person for Access \_\_\_\_\_  
f. Access Person's Phone # \_\_\_\_\_  
g. Is Parcel Currently Vacant? ☐ Yes ☐ No  
h. Buildings on the parcel? ☐ None  
(check all that apply) ☐ Demolished/Ruins  
☐ Intact, To be demolished  
☐ Intact, To be re-used  
i. Business/facility operations ☐ Never Operated on the parcel  
☐ Not operating since \_\_\_\_\_  
(approx date)  
☐ In operation: nature of the  
business \_\_\_\_\_

a. Tax Map Parcel# \_\_\_\_\_  
b. Acreage \_\_\_\_\_  
c. Current Owner \_\_\_\_\_  
d. Owner Mailing Address \_\_\_\_\_  
e. Contact Person for Access \_\_\_\_\_  
f. Access Person's Phone # \_\_\_\_\_  
g. Is Parcel Currently Vacant? ☐ Yes ☐ No  
h. Buildings on the parcel? ☐ None  
(check all that apply) ☐ Demolished/Ruins  
☐ Intact, To be demolished  
☐ Intact, To be re-used  
i. Business/facility operations ☐ Never Operated on the parcel  
☐ Not operating since \_\_\_\_\_  
(approx date)  
☐ In operation: nature of the  
business \_\_\_\_\_

a. Tax Map Parcel# \_\_\_\_\_  
b. Acreage \_\_\_\_\_  
c. Current Owner \_\_\_\_\_  
d. Owner Mailing Address \_\_\_\_\_  
e. Contact Person for Access \_\_\_\_\_  
f. Access Person's Phone # \_\_\_\_\_  
g. Is Parcel Currently Vacant? ☐ Yes ☐ No  
h. Buildings on the parcel? ☐ None  
(check all that apply) ☐ Demolished/Ruins  
☐ Intact, To be demolished  
☐ Intact, To be re-used  
i. Business/facility operations ☐ Never Operated on the parcel  
☐ Not operating since \_\_\_\_\_  
(approx date)  
☐ In operation: nature of the  
business \_\_\_\_\_

a. Tax Map Parcel# \_\_\_\_\_  
b. Acreage \_\_\_\_\_  
c. Current Owner \_\_\_\_\_  
d. Owner Mailing Address \_\_\_\_\_  
e. Contact Person for Access \_\_\_\_\_  
f. Access Person's Phone # \_\_\_\_\_  
g. Is Parcel Currently Vacant? ☐ Yes ☐ No  
h. Buildings on the parcel? ☐ None  
(check all that apply) ☐ Demolished/Ruins  
☐ Intact, To be demolished  
☐ Intact, To be re-used  
i. Business/facility operations ☐ Never Operated on the parcel  
☐ Not operating since \_\_\_\_\_  
(approx date)  
☐ In operation: nature of the  
business \_\_\_\_\_

### III. Property Redevelopment

16. Describe the intended re-use of the property;  
(attach additional sheets if necessary)

The facility is to serve a warehouse and distribution facility for MAKROCHEM, sp. Z.O.O., which is a Polish-based carbon black manufacturer. Distribution will be by rail through a rail line spur to be constructed at the facility and by truck.

17. a. Will the future use include any chemical processes, petroleum or chemical storage and handling, on-site waste disposal, or generate any hazardous substances? ☐ Yes ☒ No  
b. If Yes, identify the substances and discuss steps that will be taken to prevent their release to the environment.

18. Will redevelopment lead to the creation of permanent jobs on the property? ☒ Yes Anticipated Number 20  
☐ No

19. Projected Increase to the Tax Base as a result of this redevelopment: \$ 7.5 million over 5 yrs

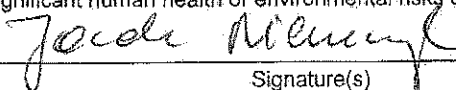
20. a. Will there be Intangible benefits from this redevelopment such as:  
☐ LEED, Earth Craft, EnergyStar, or similar certification of Sustainable Development  
☐ Creation / Preservation of Green Space on the Property  
☐ Deconstruction/ Recycling of demolition or building debris  
☒ Other Creation of jobs and support of state's tire industry.

b. Please Describe:

21. Anticipated date of closing or acquiring title to the property 3 / 7 / 2016

#### 22. Redevelopment Certification

By signature below, the applicant(s) affirm that their proposed use and activities will not knowingly aggravate or contribute to existing contamination or pose significant human health or environmental risks on the property.



Signature(s)

### IV. Project Management And Financial Viability (Co-Entities, refer to instruction sheet)

23. Environmental Consulting Firm  
☐ None as of this application date

S&ME, Inc.

Company

134 Suber Road

Columbia

SC

29210

Address

City

State

Zip

Tom Behnke

SC 2014

(803) 227-2472

(803) 561-9024

tbehnke@smeinc.com

Project Contact1

S.C PE/PG Reg. #

Phone1

Phone 2

email

Project Contact 2

S.C PE/PG Reg. #

Phone1

Phone 2

email

## 24. Legal Counsel (Optional)

McNair Law Firm

Firm

Stacy K. Taylor

(803) 753-3267

(803) 799-9800

Attorney

Phone1

Phone 2

1221 Main St., Suite 1800

Columbia

SC

29201

staylor@mcnair.net

Street Number or PO Box

City

State

Zip

email

25. Applicant's Billing Address ☒ Same as Contact person in #6 above Go to question #26

But be sure counsel is cc'ed.

Financial Contact

Title

Company

Phone

Address

City

State

Zip

## 26. Financial Viability

By signature(s) below, the applicant agrees to:

1. Pay the Department's costs upon receipt of invoices for implementing the Voluntary Cleanup Program for this Property, and
2. Provide financial statements, if requested, to document financial viability to conduct the response actions on the Property.

☐ Waiver Requested (Check Box if applicable)

The applicant is a Local Government or qualifies as a 501(c) Non-Profit Organization, and requests waiver of some Departmental costs of implementing this contract.

  
 Signatures

## V. Application Completion (The following are required along with this form. Check applicable boxes)

27. The Legal Description of the Property is attached as a: ☐ Plat Map ☐ Metes and Bounds Text ☒ Both

28. The Phase I Environmental Site Assessment Report is attached as a:

☒ New report completed in the past six months by S&ME, Inc.

(Name of Environmental Firm)

☐ Older report updated in the past six months by

(Name of Environmental Firm)

29. Environmental sampling data and other reports: (check one)

☐ The Applicant is not aware of any environmental testing on the property☒ The Applicant believes the Department already has all environmental data in its files on: Joslyn Clark Controls Site☐ The Following reports are attached:

(Site Name)

Report Date

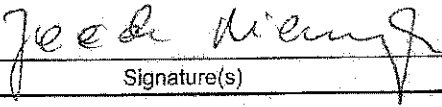
Report Name

Environmental Firm

30. Mailing addresses of Former Owners, Operators and other Potentially Responsible Parties:(check one)

☒ Enclosed with this Application as an Attachment☐ Will be submitted along with (or before) the signed contract

31. The applicants attest by signature below that this application is accurate to their best knowledge. Furthermore, the applicants request DHEC evaluate the Property for inclusion in the Brownfields Voluntary Cleanup Program and draft a Non-Responsible Party Contract for the Property.

  
 Signature(s)

## This Section for Department Use Only

Assigned File Name		
Eligible for NRP Contract	Y N	
Assigned File Number		
Assigned Contract Number		

## EXHIBIT A

### PROPERTY DESCRIPTION

#### LANCASTER COUNTY TAX MAP PARCEL 0066-00-031.00 (JOSLYN CLARK CONTROLS TRACT)

All that certain piece, parcel or tract of land, together with the improvements located thereon, lying, being and situate in Lancaster County, South Carolina, approximately three miles West of the City of Lancaster on the southerly side of South Carolina Highway No. 9, bounded on the north by the right of way for South Carolina Highway No. 9, on the east by property now or formerly of Northwest Apartments, on the south by the right of way for the Lancaster & Chester Railroad Company, and on the west by property now or formerly of Joe Cunningham and property of Challenger Electrical Controls, Inc., said tract more particularly shown, described and designated as follows on plat of survey entitled "Physical Survey of Joslyn Clark Controls, Inc." dated August 22, 1984, surveyed by R. H. Iseley and J. C. Crumpler:

BEGINNING AT A POINT at the northwestern corner of said tract located on the southern margin of the right of way for South Carolina Highway No. 9, marked by an iron pin, thence along the southern margin of the right of way for South Carolina Highway No. 9 S 51° 00' 00" E for a distance of 1074.65 feet to an old iron pin; thence leaving the right of way for South Carolina Highway No. 9 S 39° 00' 00" W along the common property line with property now or formerly of Northwest Apartments for a distance of 1147.86 feet to an old iron pin located on the northern margin of the right of way for the Lancaster & Chester Railroad Company, thence with the northern margin of the right of way for the Lancaster & Chester Railroad Company N 67° 17' 00" W 117.87 feet to an iron pin, thence N 66° 42' 00" W 202.54 feet to an iron pin, thence N 66° 51' 00" W 260.55 feet to an iron pin, thence N 66° 54' 00" W 614.56 feet to an old iron pin, thence leaving the right of way for the Lancaster & Chester Railroad Company N 39° 00' 00" E along the common property line with property now or formerly of Joe Cunningham for a distance of 350.52 feet to an iron pin; thence along the common property line with property of Challenger Electrical Controls, Inc. S 51° 00' 00" E 135.00 feet to an iron pin, thence N 39° 00' 00" E 270.00 feet to an iron pin, thence N 02° 08' 50" E 75.01 feet to an iron pin, thence N 39° 00' 00" E 746.88 feet to an iron pin, thence N 22° 04' 15" E 50.28 feet to an iron pin, the point of beginning; said tract containing 32.00 acres according to the aforementioned plat of survey.

Being the same property also described as:

ALL THAT CERTAIN piece, parcel or tract of land situated in Lancaster County, South Carolina, being approximately 3.4 miles west of downtown Lancaster and fronting along the south margin right of way of West Meeting Street South Carolina Highway 9 Business and being more particularly bounded and described as follows:

BEGINNING at an existing 1" iron pipe located on the south right of way margin of West Meeting Street (South Carolina Highway 9 Business) and being the common corner of the American Properties Corp. tract and the William Joseph Cunningham tract; said point being **N20°32'49"W 80.30'** from a new P.K. nail set in the concrete base of a monitor well having South Carolina State Plane NAD83 (2011) EPOCH 2010.0000 Grid Coordinates of **1051523.31 ifeet NORTH** and **2052492.98 ifeet EAST**; thence along and with the south most right of way margin of West Meeting Street (South Carolina Highway 9 Business) **S54°33'10"E 75.35'** to a

new number 4 rebar set on the south most right of way margin of West Meeting Street (South Carolina Highway 9 Business) and the **POINT OF BEGINNING** of the property described herein; thence along and with the south most right of way margin of West Meeting Street (South Carolina Highway 9 Business) **S54°33'10"E 1074.33'** to an existing 1" iron pipe located on the south most right of way margin of West Meeting Street (South Carolina Highway 9 Business) ; thence **S35°26'10"W 1147.62'** to an existing 1" iron pipe located on the north most right of way margin of the Lancaster and Chester Railroad; said point being **N79°04'07"W 1090.93'** from an existing P.K. nail in the centerline intersection of the Lancaster and Chester Railroad mainline track and West Manor Drive; said existing 1" iron pipe also being **N72°03'35"W 482.17'** from a point in the center of the Lancaster and Chester Railroad mainline track at the Milepost 25 sign; thence from the existing 1" iron pipe, along and with the north most right of way margin of the Lancaster and Chester Railroad the following four(4) calls: 1) **N70°55'49"W 117.85'** to an existing 1" iron pipe; 2) **N70°13'43"W 202.43'** to an existing 1" iron pipe; 3) **N70°25'40"W 260.55'**; 4) **N70°27'19"W 614.61'** to an existing 1" iron pipe; thence leaving said right of way **N35°26'08"E 350.54'** to a new number 4 rebar set; thence **S54°22'58"E 135.14'** to an existing 3/4" iron pipe; thence **N35°26'28"E 270.07'** to an existing 3/4" iron pipe; thence **N01°22'07"W 75.32'** to a new number 4 rebar set; thence **N35°26'39"E 746.60'** to an existing 3/4" iron pipe; thence **N18°23'31"E 50.32'** to the **POINT OF BEGINNING** and containing **31.990 ACRES** as shown on "PLAT OF ALTA/ACSM LAND TITLE SURVEY FOR MAKROCHEM, LLC.", file M2LUAADA dated December 24<sup>th</sup> 2015 as surveyed by Enfinger & Associates Professional Land Surveyors.

TMS No. 0066-00-031.00

Derivation: This being the same property conveyed into Joslyn Clark Controls, Inc. by deed of Challenger Electrical Controls, Inc. dated August 23, 1884 and recorded with the Register of Deeds for Lancaster County, South Carolina in Book F-6 at page 485.



